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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,437	12/05/2003	Eiki Matsuo	B-4460PCTDIV2 621266-3	2426
36716	7590	12/08/2004	EXAMINER STULTZ, JESSICA T	
LADAS & PARRY 5670 WILSHIRE BOULEVARD, SUITE 2100 LOS ANGELES, CA 90036-5679			ART UNIT 2873	PAPER NUMBER

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,437

Applicant(s)

MATSUO, EIKI

Examiner

Jessica T Stultz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/031026.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

Claims 11-50 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/729,320 in view of Togino Patent number 6,201,648. Regarding independent claims 11-14 of the present invention, Matsuo application 10/729,320 discloses an image optical system in which a plurality of light beams emerge from an image-forming device on a conjugate plane A and having a divergence angle of 10 degrees or greater made obliquely incident upon a conjugate plane B to form on the conjugate plane B an enlarged image approximately similar to an image formed by the image-forming device, the image optical system comprising the same limitations as the present invention for the first and second optical systems (Claims 11-14 or Matsuo), but does not specifically disclose that the first optical system include at least one element having a free-form surface and having the function of converging the plurality of light beams from the image-forming device. Togino teaches of an optical display device wherein a free-form, i.e. rotationally asymmetric surface of a mirror is used to converge light rays from a light source for the purpose of using a single reflecting surface to convert a divergent bundle of rays (Column 57, lines 13-37, wherein the rotationally asymmetric surface "58" converges light rays from light source "57", Figures 69-70). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the image optical system of Matsuo application 10/729,320 to further include the first optical system include at least one element having a free-form surface and having the function of converging the plurality of light beams from the image-forming device since Togino teaches of an optical display device wherein a free-form, i.e.

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rotationally asymmetric surface of a mirror is used to converge light rays from a light source for the purpose of using a single reflecting surface to convert a divergent bundle of rays.

Regarding claims 15-18 of the present application, Matsuo discloses the limitations therein (Claims 19-22 of Matsuo).

Regarding claims 19-22 of the present application, Matsuo discloses the limitations therein (Claims 27-30 of Matsuo).

Regarding claims 23-26 of the present application, Matsuo discloses the limitations therein (Claims 35-38 of Matsuo).

Regarding claims 27-30 of the present application, Matsuo discloses the limitations therein (Claims 43-46 of Matsuo).

Regarding claims 31-34 of the present application, Matsuo discloses the limitations therein (Claims 51-54 of Matsuo).

Regarding claims 35-38 of the present application, Matsuo discloses the limitations therein (Claims 59-62 of Matsuo).

Regarding claims 39-42 of the present application, Matsuo discloses the limitations therein (Claims 67-70 of Matsuo).

Regarding claims 43-46 of the present application, Matsuo discloses the limitations therein (Claims 75-78 of Matsuo).

Regarding claims 47-50 of the present application, Matsuo discloses the limitations therein (Claims 83-86 of Matsuo).

This is a provisional obviousness-type double patenting rejection.

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Allowable Subject Matter

The following is an examiner's statement of reasons for allowable subject matter: none of the prior art alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103.

Specifically regarding independent claims 11-14, none of the prior art alone or in combination disclose or teach of an image optical system including first and second optical system each having an optical axis, specifically wherein the image optical system satisfies the claimed relationships.

Response to Arguments

Applicant's arguments filed September 13, 2004 have been fully considered but they are not persuasive. Specifically, applicant argues that the examiner has not treated all of the differences between the claims of the two applications, specifically the limitations such as "the optical elements are decentered" or "the optical elements having no common optical axis". The examiner agrees that these limitations are not addressed, however, it is not necessary to address these limitations since they are in the prior art reference, Matsuo application 10/729,320. For an obvious type nonstatutory double patenting rejection, the examiner is only required to provide one-way obviousness, i.e. establishing that the claims of the application are obvious over the conflicting reference. Two way obviousness, i.e. establishing that both of the claims of the application are obvious over the conflicting reference and that the conflicting claims are obvious over the claims of the application, as suggested by the applicant, is only required when the claims could not have been filed in the same application and administrative delay was caused by the PTO, which is not the case in this application. See MPEP 804, specifically under heading II, "Requirements of a double patenting rejection", section B. Therefore the examiner is only required to provide one way obviousness motivation which is shown above in the corresponding double patenting rejection wherein motivation to add the limitations from the application are found in the Togino patent.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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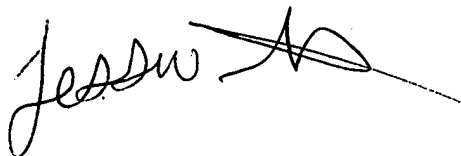
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica Stultz



JORDAN SCHWARTZ
PRIMARY EXAMINER

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Patent Examiner

AU 2873

December 2, 2004